

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
Implementation of the Subscriber Carrier)	
Selection Changes Provisions of the)	
Telecommunications Act of 1996)	CC Docket No. 94-129
Policies and Rules Concerning)	
Unauthorized Changes of Consumers')	
Long Distance Carriers)	

**JOINT COMMENTS OF SAGE TELECOM, INC., THIRD PARTY VERIFICATION,
INC., AND Z-TEL COMMUNICATIONS, INC.**

Sage Telecom Inc., Third Party Verification, Inc., and Z-Tel Communications, Inc. (hereinafter, the "Joint Commenters") hereby file comments to the Commission's March 17, 2003 Order and Notice of Proposed Rulemaking.

INTRODUCTION

On March 17, 2003, the Federal Communications Commission ("FCC" or "Commission") issued its *Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking* seeking comments on whether it should revise, clarify, or adopt any additional rules to more effectively carry out the directive of Congress to implement section 258 of the Communications Act of 1934 (the "Act"), as amended by the Telecommunications Act of 1996 (the "1996 Act") to address the practice of unauthorized changes in a subscriber's telecommunications provider (*e.g.*, slamming).¹ The Commission requested comments on whether third party verifiers should be required to state the date during the taped verification

¹ 47 U.S.C. § 258(a). Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). The Further Notice of Proposed Rulemaking was published in the Federal Register on April 18, 2003.

process, whether the verifier should be required to make additional statements, and whether the additional statements would increase or reduce customer confusion.² The Joint Commenters hereby submit the following comments in response to the Commission's *Second Further Notice of Proposed Rulemaking*.

BACKGROUND AND SUMMARY

The Joint Commenters have extensive experience with third party verification, both as carriers seeking to obtain authorization for a carrier change and as independent providers of verification services. As an overarching objective, the Joint Commenters envision a carrier change verification process that will accomplish the twin goals of providing confirmation of a subscriber's informed decision regarding their carrier choice, while establishing clear and consistent procedures that carriers and verifiers can implement without undue complication or error. The development of predictable verification procedures will lead to a more vibrant and competitive market for telecommunications services. In the Joint Commenters' experience, the best verification sessions are those that are brief, clear and do not introduce new or confusing concepts to the subscriber authorizing a carrier change.

The Joint Commenters support the adoption of minimum content requirements for a verification. However, Joint Commenters are concerned that excessive tinkering with the verification process will result in requirements which are difficult and costly for any carrier or third-party verifier to implement, but have little marginal utility in assisting the consumer or benefiting the industry as a whole. In fact, some of the new requirements proposed in the *NPRM* would only have the effect of increasing customer confusion, increasing verifier and carrier

² *In the Matter of Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, CC Docket No. 94-129, FCC 03-42, Second Further Notice of Proposed Rulemaking, ¶¶ 109-113 (rel. March 17, 2003) ("*Second Further Notice*").

costs, and thereby impeding the full and open exercise of consumer choice in competitive markets.

RESPONSES TO SPECIFIC PROPOSALS

First, the Commission should be cognizant of the impact an increasingly overlapping array of content requirements is having on the ability to provide a consistent and clear verification of the subscriber's choice of preferred service providers. In particular, the Commission's proposals do not address how a verifier will reconcile multiple state and federal requirements that increasingly are imposing inconsistent obligations on a verification process.

A recent example of this difficulty arises from the *Third Order on Reconsideration* itself. In that order, the Commission concluded that its rule requiring verifiers to ascertain the subscriber's current telecommunications carrier was "unnecessary" and tended to elicit potentially inaccurate information that may cause rejection or delay of the carrier change.³ The Commission's decision to eliminate this unnecessary and potentially inaccurate requirement will be stymied, however, because twenty states impose the same requirement pursuant to their state slamming regulations.⁴ As a result, carriers will not be able to eliminate this question from their verification scripts in the near future, or else they would risk violations of these states' slamming requirements.

It is unclear whether the Commission intends to supercede or preempt inconsistent state requirements such as this. Joint Commenters suggest that the Commission should minimize the burden of compliance with multiple state and federal requirements and

³ *Third Order on Reconsideration* at ¶ 57.

⁴ Verifiers are required to obtain confirmation of the current telecommunications carrier in Alaska, Arizona, Connecticut, Delaware, Hawaii, Illinois, Kansas, Maryland, Minnesota, Nevada, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia and Wyoming.

harmonize, to the maximum extent possible, such requirements. Where the FCC has specified the content required, or has eliminated or declined to require certain statements in a verification, a verification provider should be able to use an FCC-compliant script for all PC changes involving interstate services. This would enable the implementation of simple, clear and concise verification processes, thereby promoting subscriber understanding and ensuring that subscribers knowingly authorize all carrier changes.

With respect to the specific content requirements proposed, Joint Commenters believe certain of the proposals already are a part of a quality TPV today. Joint Commenters do not oppose proposals that verifications provide the date of the verification on the recording, or that providers invalidate a verification if the customer has additional questions for the carrier's sales representatives.⁵ Under current practice, verifications are terminated if a subscriber raises questions that are properly directed to the sales agent. The Joint Commenters urge the Commission to modify its proposal, however, to clarify that a verifier may transfer the subscriber back to the sales agent for further questions. As the Commission noted in the *Third Order on Reconsideration*, “[i]f a consumer needs to obtain additional information, the third party verification must be terminated, and a new verification may commence only after the carrier's sales agent has finished responding to the consumer's inquiry.”⁶

The Joint Commenters believe that some of the proposals are unnecessarily restrictive. For example, the proposal that a verifier obtain a separate subscriber response for each piece of information required in a verification would needlessly burden the consumer and increase a carrier's costs significantly.⁷ As stated before, the goal of an effective verification is

⁵ *Second Further Notice*, ¶¶ 111-12.

⁶ *Id.*, ¶ 40.

⁷ *Second Further Notice* at ¶ 113.

to confirm all required information in as concise a manner as is feasible. Generally speaking, the longer a verification lasts, the more burdensome it becomes for consumers and the more likely it is that the verification will fail for reasons unrelated to the customer's desire to switch carriers. The rules currently require verifiers to confirm a variety of information from the subscriber, including the subscriber's identity; confirmation that the person on the call is authorized to make the carrier change; confirmation that the person on the call wants to make the change; the names of the carriers affected by the change; the telephone numbers to be switched; and the types of service involved.⁸ Often verifiers obtain this information through separate questions or group them together as the logic of a verification conversation dictates. For example, a carrier may combine in one inquiry questions regarding whether a subscriber is the person authorized to make a carrier change and that the person on the call wants to make the change in preferred carriers. A rigid requirement that each of these inquiries be backed by separate questions will lengthen the verification process to an unbearable length. The Joint Commenters ask the Commission to balance the desire for prevention of every possible type of confusion with an understanding that by increasing the procedures subscribers must endure to change carriers, the increased regulation ultimately thwarts the goal of increased competition, choice, and market efficiency.⁹

Joint Commenters also oppose proposals which would introduce new and potentially confusing questions in the verification process. Specifically, Joint Commenters

⁸ *Third Report and Order*, 15 FCC Rcd at 16016, ¶40.

⁹ The Commission has previously expressed a concern regarding subscribers experiencing frustration with excessively burdensome procedures related to "carrier change freezes." *Third Report and Order*, 15 FCC Rcd at 16029, ¶70 *citing*, *Section 258 Order* ("We determined that subscribers would gain no additional protection from the implementation of a preferred carrier freeze if we were to allow third party verification of a carrier change to override a preferred carrier freeze. Although such a proposal minimizes the risk that unscrupulous carriers might attempt to impose preferred carrier freezes without the consent of subscribers, we concluded that it frustrates the subscriber's ability to change carriers.")

oppose a requirement that verifiers define the terms interLATA or intraLATA toll on each verification. As the Commission has recognized, particularly with intraLATA toll, carriers use different terms to refer to this type of call, such as “local toll,” “regional long distance,” and “short haul toll,” among others. Verifiers have no way of knowing or confirming the type of description used by a sales agent prior to the verification phase of the call. By attempting to impose upon verifiers the responsibility to offer specific definitions for interLATA and intraLATA toll service, customers will suffer more confusion – not less.

The potential for customer confusion is addressed more effectively in verification processes today without the need for a new disclosure rule. Typically, most verification providers will provide an explanation of these terms if the customer asks. Thus, a customer that may not understand the concept of intraLATA toll, for example, is provided a brief explanation upon request, but the verifier avoids introducing a potentially new term to those customers who do not need additional information.

For similar reasons, a verifier should not be charged with the responsibility to specify that interLATA service encompasses both international and state-to-state calls. Highlighting international calls as a separate category of calling would confuse more customers than it potentially might help. Many customers do not make a significant number of international long distance calls. Thus, for them, international is not a significant part of their decision. If international calling is singled out on a verification, however, the customer may become unnecessarily confused or become suspicious as a result of the unexpected nature of the inquiry. This could lead to a conversation between verifier and the customer in which the verifier’s role would be transformed into a supplier of regulatory information or comparative advice, rather than its role as a neutral party confirming the customer’s choice. The verification

phase of the call is not the proper place for such discussions. Therefore, the Commission should not adopt the proposal to require this information on each verification call.

CONCLUSION

The Joint Commenters support a change process in which customers are provided with sufficient information to make an informed decision without making it economically infeasible for a verifier to conduct operations. The verification process works most efficiently today when the verification inquiry is clear, predictable and concise. Joint Commenters urge the Commission to maintain an efficient verification process by adopting content requirements that are simple and clear, but that do not unnecessarily burden consumers or introduce potential confusion into the verification process. Joint Commenters recommend that any new content requirements be modified as described above.

Respectfully submitted,

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